



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/138,578	08/24/1998	TAKESHI KAMEDA	0033-0599P	4264

2292 7590 03/20/2003

BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER

KUMAR, PANKAJ

ART UNIT	PAPER NUMBER
----------	--------------

2631

DATE MAILED: 03/20/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/138,578	KAMEDA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Pankaj Kumar	2631	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Pankaj Kumar. (3) \_\_\_\_\_  
 (2) Catherine Voisinet. (4) \_\_\_\_\_

Date of Interview: 3/17/2003-3/19/03.

Type: a) ☒ Telephonic b) ☐ Video Conference  
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
 If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1.

Identification of prior art discussed: N/A.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

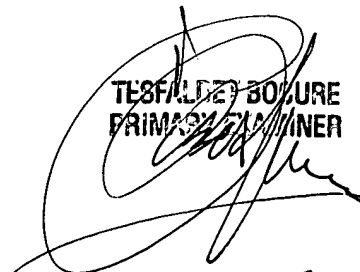
Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: see attached sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview(if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

TEST/LET BOURE  
 PRIMARY EXAMINER



Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Pankaj Kumar  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

#### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

##### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Art Unit: 2631

3/17/2003

The applicant called requesting an interview to discuss allowing the case after fixing the 112 problems. An interview has been scheduled for tomorrow afternoon (time was not specified since the applicant said that they had an appeal in the morning) and the applicant will call.

3/18/2003

Catherine Voisinet called back and suggested some amendments to claim 1. She will send those via email for me to look at it. I said even if the 112 issues are taken care of for claim 1, they would still need to incorporate the other limitations in claims 4, 5, 6, 8 and 9 as stated in the office actions. She did not agree and so we will discuss this further along with the art rejection tomorrow at 11:00.

3/19/2003

Catherine called and I read the following statement to her: "I do not know the amendments you have made to claim 1 to overcome the after final indefinite issue since I have not received the amendments that you said you would email me. Nevertheless, after further review after yesterday's conversation, claim 1 is amended after the first action and based on the amendments made, the arguments from the first action are mute as indicated in the final office action. Applicant's argument after the first office action that the newly amended claim 1 is allowable is negated by the fact that in the final office action, claim 1 was found to be indefinite. There is no need to make an art rejection since claim 1 is indefinite. Claim 1 was never indicated to be allowable – whether or not the indefiniteness problem was corrected. After the indefiniteness problem is corrected, this claim will require further consideration in a RCE.

After all of the 35 U.S.C. 112 issues are corrected, claims 4, 5, 6, 8, and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in the final office action and rewritten in independent form including all of the limitations of the base claim and any intervening claims, including claim 1, as specified in the final office action."

She asked how long I have been an examiner. I said about 1 year. She said that even if there are 112-second paragraph issues, I am supposed to make my best guess and cite prior art, if there are any. She said that prior art does not need to be cited if 101 and 112 first paragraph issues exist. She said that since in the first office action, I had 112-second paragraph rejections and prior art rejections that I know about this rule. I do not know about this rule. She said that this rule is in the MPEP. I said that sometimes prior art rejections may be made even if there is a 112 second paragraph rejection; however, this is not always the case but just because a prior art rejection is not made with a 112 second paragraph rejection, this does not mean that a prior art rejection cannot be made after the 112 second paragraph issues are corrected. I also asked for her to tell me where this she was citing exists in the MPEP. She said she would need to call me back on this. I said second paragraph rejections are discussed in section 706.03(d). She said that this section does not contain this rule.

She called me back and pointed to sections 706.03, 707.07f and 707.07g.

Application/Control Number: 09/138,578

Page 3

Art Unit: 2631

I agreed to send out another action that would override the action mailed on 2/5/2003. She asked me to fax it. I said it needs to go through my primary and then it would be mailed. I said that the next deadline is 4/5/2003 which is many days away anyways. So she asked for the primary's name and telephone number.